



**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

LRH-2002-1390-OHR

Issuance Date:

May 29, 2007

Stream:

Ohio River MP 320.3

Closing Date:

June 28, 2007

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.

APPLICANT: McGinnis, Inc.
PO Box 534
South Point, Ohio 45680

LOCATION: The proposed project is located on the right descending bank of the Ohio River at mile point 320.3 approximately 4 miles west of South Point, Lawrence County, Ohio.

DESCRIPTION OF PROPOSED WORK: The applicant received authorization on May 16, 2005 to modify their existing fleeting facility and to construct one set of marine ways at the above location. The modification included the removal of two rows of barges (totaling 14 barges) from the fleet. The authorization also included the construction of marine ways used to facilitate barge construction and repair activities, and included impacts to the Ohio River of approximately 300 linear feet.

After construction of the above marine ways, the applicant determined the design was deficient for returning barges to the river during heavy construction/repair periods. Therefore the applicant proposes to construct additional marine ways approximately 1,200 linear feet downstream from the existing marine ways. These additional marine ways would be identical to the previously authorized marine ways and consist of four concrete ramps 275' long and 15' wide on a slope of 10.3 degrees. Approximately 40,000 cubic yards of earth would be excavated from the right descending bank to facilitate construction of the additional marine ways. The excavated material would be placed in upland areas. Side slopes for the ramps would be protected with stone. A total of 300 cubic yards of concrete would be placed below the ordinary high water mark of the River in association with these marine ways and the marine ways would extend approximately 100 feet into the River from the normal pool shoreline. Barges and other vessels would be raised from the River via the marine ways to a work area approximately 32 feet above normal pool.

Plans of the proposal are attached to this notice.

MITIGATION PLAN: The applicant has not proposed mitigation for the impacts at the time of this Notice. The Corps will make a determination of appropriate mitigation upon review of all submitted information.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the Ohio Environmental Protection Agency.

HISTORIC & CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined the proposed project would have no effect on any property listed on the Register. Phase I and Phase II Surveys were completed during review of the originally authorized project. Further, it was determined the previously authorized project had no effect on properties listed on or eligible for listing on the National Register. A copy of this public notice will be furnished to the State Historic Preservation Office for their review. Comments concerning archaeological sensitivity of the project area should be based on collected data.

THREATENED & ENDANGERED SPECIES: The project is located within the known or historic range of the following candidate, threatened, or endangered species:

Indiana bat (E)
pink mucket pearly mussel (E)
running buffalo clover (E)

sheepnose mussel (candidate species)
timber rattlesnake (proposed candidate species)

The Huntington District has determined that the project would have no effect on the Indiana bat as the project would not involve the removal of any trees. The proposed project would have no effect on the timber rattlesnake or the running buffalo clover as it would not involve impacts to their habitat. The proposed project may affect, but would not likely adversely affect the pink pearly mucket mussel and the sheepnose mussel as these species have not been found in this location of the River. This public notice serves as a request to the USFWS for any additional information they may have on whether any federally listed or proposed species may be present in the area which would be affected by the activity. This information will be used to assist the Huntington District in making final effect-determinations pursuant to Section 7(a)(2) of the Federal Endangered Species Act of 1973 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U.S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this

proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

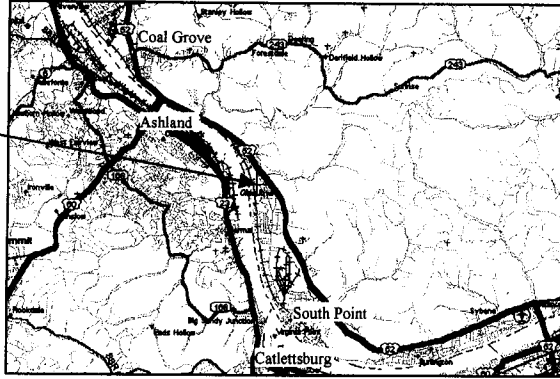
Mr. Jim Spence
North Regulatory Section, CELRH-OR FN
U. S. Army Corps of Engineers Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070.

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Mr. Jim Spence of the North Regulatory Section at 304-399-5210.

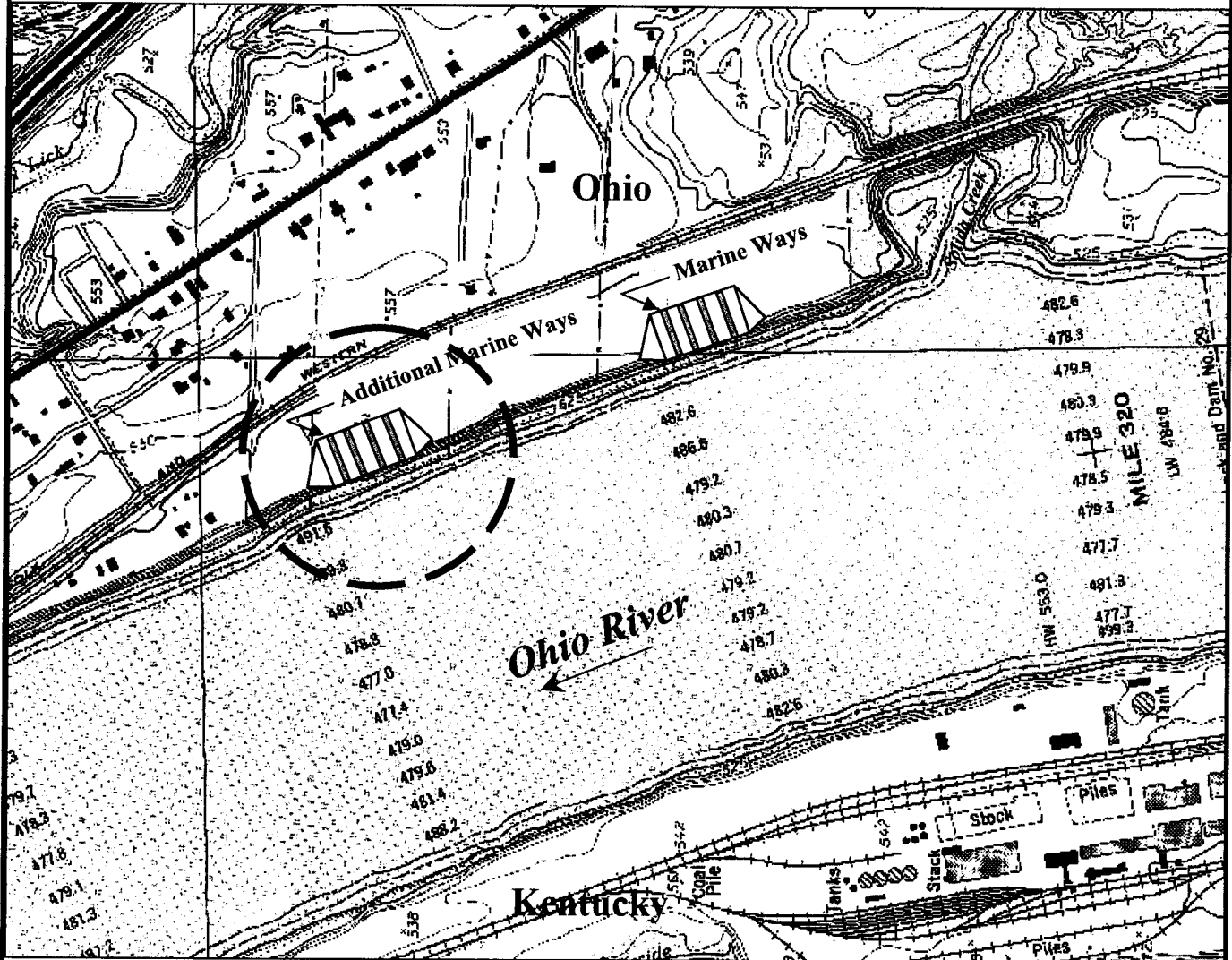

Ginger Mullins
Chief, Regulatory Branch

(O), (WV)

Marine Ways



Vicinity



Notes:

Normal Pool 515.0

Ordinary High Water 518.7

Figure 1 of 3

Scale 1"=600'

Applicant:

McGinnis, Inc.
P.O. Box 534
South Point, OH 45680

Additional Marine Ways

Permit: Ohio River - 058691-1

OH River 320.3 RDB

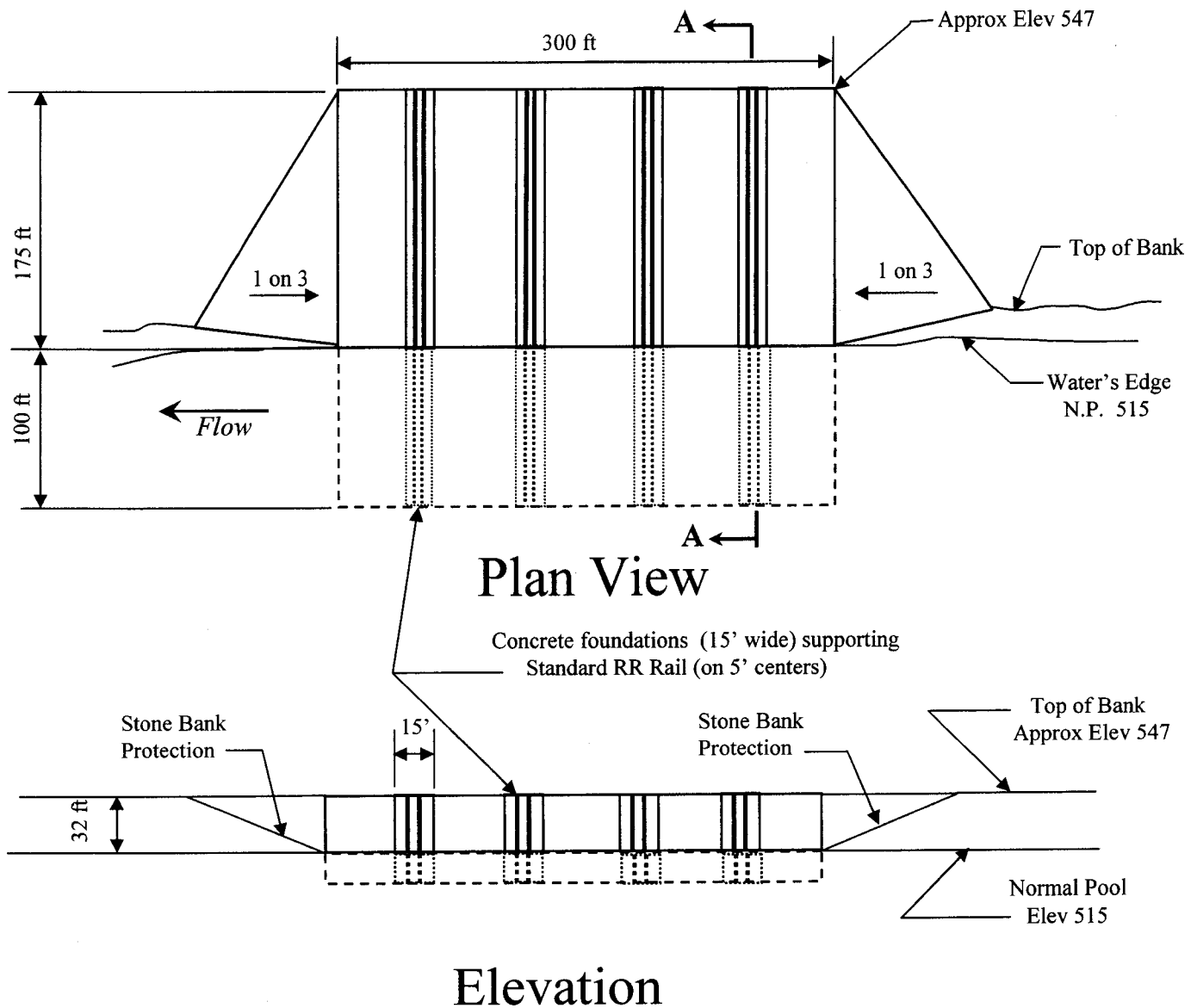
Location

Agent:

XCorps, LLC, P.O.Box 144
Cincinnati OH, 45201

Sheet 1 of 3

26 Mar 2007



Notes:

1. Approximately 40,000 cu yds will be removed and placed above Elev 540
2. The 1 on 3 side slopes will be protected with stone.

Scale 1"=100'

Figure 2 of 3

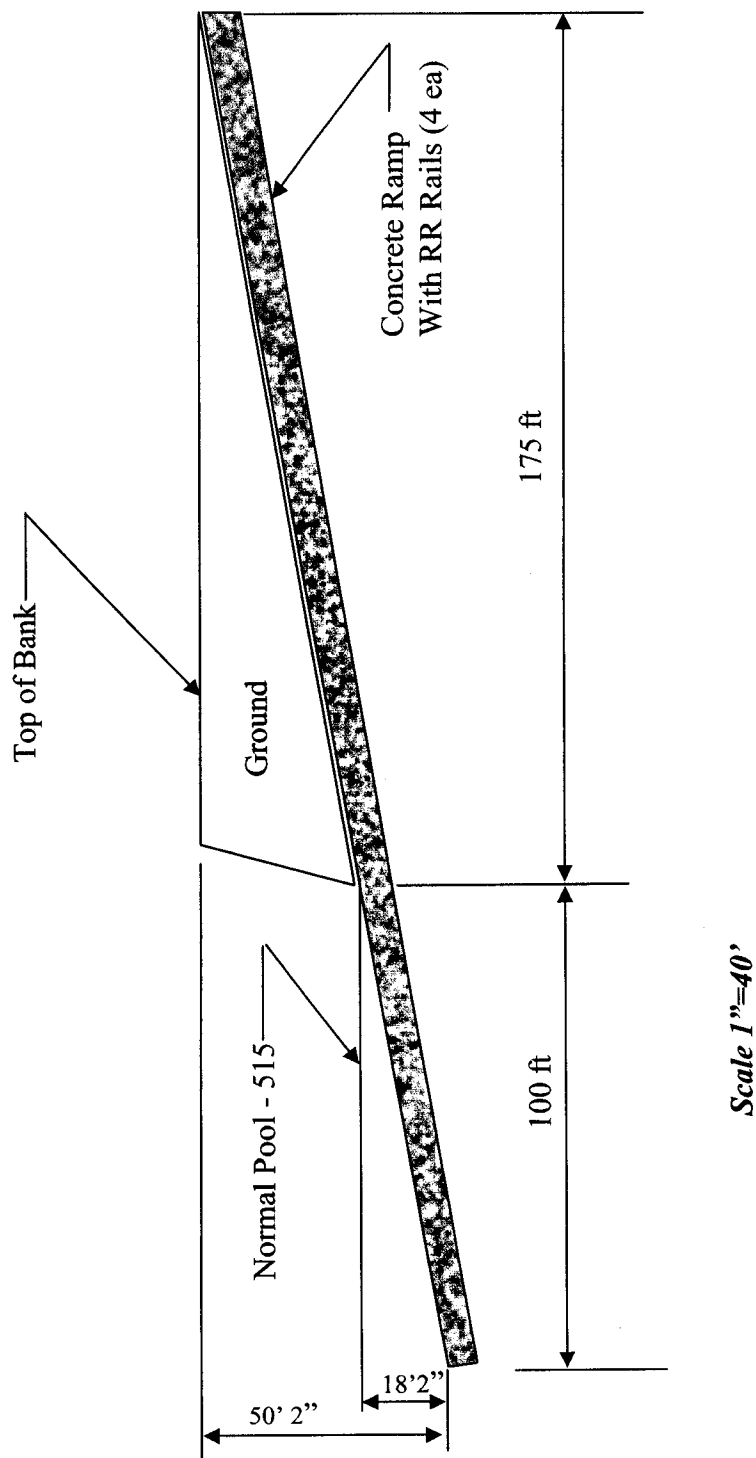
Applicant:
McGinnis, Inc.
P.O. Box 534
South Point, OH 45680

Additional Marine Ways
 Permit: Ohio River – 058691-1
OH River 320.3 RDB
Typical Plan and Elevation

Agent:
XCorps, LLC, P.O. Box 144
 Cincinnati OH 45039

Sheet 2 of 3

26 Mar 2007



Section A-A

Figure 3 of 3

Notes:
 Normal Pool 515.0
 Ordinary High Water 518.7

Applicant:

McGinnis, Inc.
 P.O. Box 534
 South Point, OH 45680

Additional Marine Ways

Permit: Ohio River - 058691-1

OH River 320.3 RDB

Section A - A

Agent:

XCorps, LLC, P.O.Box 144
 Cincinnati OH, 45201

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26 Mar 2007